

**ARIZONA SUPREME COURT  
ADMINISTRATIVE OFFICE OF THE COURTS  
INVESTIGATION SUMMARY and PROBABLE CAUSE ANALYSIS  
and DETERMINATION REPORT**

<b><i>CERTIFICATE HOLDER/LICENSEE INFORMATION</i></b>	<b>Certificate Holder:</b>	Gregory DoVico
	<b>Certification Number:</b>	20067
	<b>Business Name:</b>	Southwest Fiduciary, Inc
	<b>Certification Number:</b>	20069
	<b>Type of Certificate/License:</b>	Fiduciary PRN, BUE

<b><i>COMPLAINANT</i></b>	<b>Name:</b>	Craig Sletten
<b><i>INVESTIGATION INFORMATION</i></b>	<b>Complaint Number:</b>	13-0004
	<b>Investigator:</b>	Pasquale Fontana

<b>Complaint Received:</b>	April 22, 2013
<b>Complaint Forwarded to the Certificate Holder:</b>	April 29, 2013
<b>Certificate Holder/Licensee Received Complaint:</b>	April 30, 2013
<b>Response From Certificate Holder:</b>	April 30, 2013
<b>Period of Active Certification/Licensure:</b>	March 3, 1999 - Present (DoVico)
<b>Period of Active Certification/Licensure:</b>	March 3, 1999 (Southwest Fiduciary, Inc.) – Present
<b>Status of Certification/License:</b>	Active (DoVico)
<b>Status of Certification/License:</b>	Active (Southwest Fiduciary Inc.)
<b>Availability of Certificate Holder/Licensee:</b>	Available
<b>Availability of Complainant:</b>	Available
<b>Report Date:</b>	March 7, 2014

**ALLEGATIONS:**

1. Sletten alleges SFI billed the estate for quarterly reports but did not provide the reports.
2. Sletten alleges SFI uses software programs, Time Matters and Time Keepers, which add unfair and unnecessary billing costs to the estate.
3. Sletten alleges SFI expended in excess of \$2,350,000.00 and there has been continual depletion of the estate's assets since 2006.
4. Sletten alleges SFI conveyed property, a restricted asset, to the ward and took a \$412,000.00 loan on the property.
5. Sletten alleges SFI failed to properly insure the ward's residence and the home was damaged by water resulting in devaluation of the estate.

6. Sletten alleges DoVico, as trustee of the Petric Family Trust, made a loan to SFI estate manager, Phillip DoVico, for \$100,000.00, using the ward's house as security and charged 18% interest.
7. Sletten alleges SFI did not list the \$100,000.00 loan on the annual accounting for that year.
8. Sletten alleges SFI had its attorney perform tasks that should have been done by the fiduciary creating unnecessary financial expenses for the ward.
9. Sletten alleges SFI failed to pay the ward's taxes on time resulting in interest and penalty charges.

<b>ADDITIONAL ALLEGATIONS:</b>
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10. DoVico did not avoid self-dealing or the appearance of a conflict of interest in violation of ACJA § 7-201(F)(1), ACJA § 7-202(F)(1), § 7-202 (J)(7), § 7-202 (J)(2)(b), and § 7-202 (J)(4)(g).
11. DoVico delegated fiduciary responsibilities to an unlicensed employee, in violation of ACJA § 7-202(F)(5)(a) and § 7-202(F)(5)(c).

<b>List of sources for obtaining information: (Investigative, records, outside resources, etc.):</b>
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- Written complaint and documentation submitted by complainant, Craig Sletten ("Sletten")
- Written response and documentation submitted by certificate holder, Gregory DoVico ("DoVico") of Southwest Fiduciary Inc., ("SFI") and attorney, Paul Harter ("Harter")
- Written response and documentation submitted by Phillip DoVico ("Phil")
- Documentation submitted by Peggy DoVico ("Peggy")
- Review of applicable Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Revised Statutes ("ARS"), Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-202, and Arizona Supreme Court Rules
- Review of Superior Court of Arizona ("the Court") Maricopa County records regarding Probate Cause Number PB2005-002932, Myra J. Sletten ("Mrs. Sletten")
- Information obtained from the Maricopa County Recorder and Elections Department website.
- Interview with Sletten
- Interview with Gary Ringrose ("Gary")
- Interview with Terry Sletten ("Terry")
- Interview with Court-appointed attorney, Paul Theut ("Theut")
- Interview with Harter
- Interview with DoVico

**PERSONS INTERVIEWED:**

1. Craig Sletten
2. Gary Ringrose
3. Terry Sletten
4. Paul Theut
5. Paul Harter
6. Gregory DoVico

**SUMMARY OF INVESTIGATION:**

Sletten alleged SFI billed for quarterly reports the family did not receive, used software programs that added unfair costs to the estate, depleted estate assets, failed to insure property, conveyed restricted property, obtained inappropriate loans against the property, allowed its attorney to perform fiduciary functions, and failed to file income taxes in a timely manner.

DoVico denied all allegations of wrongdoing and sought dismissal of the complaint stating the allegations were addressed in Superior Court and that Sletten was using the Division to deal with matters previously addressed.

**SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:**

1. Pursuant to Probate Cause Number PB2005-002932, SFI was appointed Temporary Guardian of and Conservator for Mrs. Sletten and Successor Trustee of the Sletten Family Trust ("the Trust") on October 20, 2005; and appointed Permanent Guardian of and Conservator for Mrs. Sletten and Successor Trustee for the Trust on January 12, 2006. Letters were issued on January 13, 2006. Mrs. Sletten died on August 27, 2013.
2. On April 22, 2013, the Division received a written complaint from Sletten raising concerns about SFI's use of software programs adding unnecessary costs and alleging SFI billed for quarterly reports that were not provided to family members. Sletten included a list of concerns he previously submitted to the Superior Court that he wanted included as part of his complaint.
3. On May 7, 2013, the Division received a written response from DoVico. He stated, in pertinent part:

Our office has received your correspondence along with the complaint filed by Craig Sletten. Since all the concerns Mr. Craig has raised have been either discussed with him, at the annual family meeting, or have been discussed in Court [sic]. Additionally, all previous accountings have been approved by the Court. Mr. Sletten's current letter is a "rehash" of those

items It appears, [sic] Mr. Sletten is attempting to reopen items, through your office-administratively-[sic] that have been reviewed and settled by the judiciary.

Because of the above, Southwest Fiduciary, Inc. is requesting that Mr. Sletten's complaint be dismissed. At your earliest convenience please notify us of your decision.

4. On May 15, 2013, Division Investigator Pasquale Fontana ("Investigator Fontana") conducted a telephonic interview with Sletten. He said SFI borrowed \$412,000.00 against his mother's property, a restricted asset with a clear title, sold it back to her as Trustee of the Trust and had her borrow the money on the same day SFI transferred ownership back to her. Her properties had clear titles and maintenance and repairs costs but nothing necessitating this loan because her annual income, derived from rental properties, social security benefits, and annuities, was approximately \$150,000.00. Sletten acknowledged his mother had 24-hour in-home care costing about \$120,000.00 annually.

Sletten said the Petric Trust ("Petric Trust") gave his mother's Trust a \$100,000.00 loan. He was suspicious of the loan's timing because Phil's personal property was going into foreclosure. Sletten met with DoVico to discuss the matter but DoVico told him, "That's at 18 % money and that's hard money and you get out of here" offering no explanation for the loan. Sletten said SFI did ask family members to help the estate financially prior to making the loan but no one came forward although the actual amount of money needed was not specified. Sletten believed SFI also failed to include the \$100,000.00 loan in its annual accounting.

Sletten alleged Harter, performed numerous tasks over years that should have been handled by SFI resulting in higher costs to the estate. As an example, Sletten cited four emails Harter sent family members updating them on their mother's surgery costing the estate over \$800.00.

Sletten alleged SFI's use of programs such as Time Matters and Time Keepers added unfair and unnecessary billing costs. He noted an accounting entry from February 8, 2011, whereby SFI billed 11 hours for bill paying and banking related matters. Sletten doubted staff's timecard would actually reflect working 11 hours on those tasks.

Sletten alleged SFI billed for quarterly reports but that he and other family members did not receive them.

Sletten said SFI's annual accounting showed in 2010 the estate paid federal tax penalties and was charged interest for the 2007 tax year because taxes were filed late.

Sletten verified that his mother's residence was insured but acknowledged mold caused by water damage was not covered by the policy.

5. On May 29, 2013, the Division received a written response from DoVico. He affirmed quarterly reports were sent out to family members but Sletten refused to provide contact information to SFI and to the Court and preferred correspondence be sent to his brother's address. DoVico stated SFI had numerous returned mail items for Sletten which included "voluminous" annual accountings and quarterly reports. Sletten also failed to pick up quarterly reports at Harter's office.

DoVico agreed that SFI may have spent in excess of \$2,350,000.00 because it managed over \$1,000,000.00 dollars administering the rental properties over years. Mrs. Sletten's care, medical, and care providers accounted for a significant portion of her expenses. He denied there was a depletion of assets with the exception of the sale of her primary residence and Mexico Equity Income Fund. Trust assets were comprised mostly of three rental properties and two of the income-producing properties remain in the Trust although the real estate was discounted reflecting recession valuations. Dovico said Mrs. Sletten attempted to place all of her real estate into the Trust and two of her commercial properties were transferred but her residence was not so SFI transferred the residence from the Conservatorship to the Trust in accordance with her documented desires and in consultation with her attorney.

Dovico stated that a \$412,000.00 reverse mortgage was needed to supply cash flow to the Trust because Mrs. Sletten's income did not cover her expenses. Costs included repairs to the commercial units due to substandard construction quality, building code violations, 24-hour care at the family's insistence, personal spending, and medical expenses. He claimed there was discussion with the family about significant cash flow problems and for potential relief coming from the sale of commercial properties or from using the home as collateral for a reverse mortgage with repayment coming from rental income. DoVico asserted the Court restricted only the sale of the property and not encumbrance, citing A.R.S. § 14-5424(18) for the authority to borrow money without Court approval.

DoVico denied the \$100,000.00 loan was obtained for Phil but acknowledged he executed the *Deed of Trust* as an officer and estate manager for SFI reporting to and overseen by DoVico. The estate required money and SFI sought out lenders interested in making a second position loan. Banks were disinterested in granting a loan because the home was vacant, had building code violations and safety hazards, and there was no source of repayment. Due to lack of viable sources for conventional loans SFI sought out "hard money lenders" but they wanted 36% interest on the money. DoVico said efforts to secure a loan occurred after a family meeting when everyone was apprised of the money situation and were offered the opportunity to make the loan but all declined. Harter followed up with a letter to the family outlining the terms of the loan. DoVico said, "The Petric Family Trust

was approached to make the loan,” was “a lender of last resort,” and charged 13% interest on the loan.

DoVico confirmed Allstate Insurance had a policy on the residence but mold was found on two occasions and was excluded from coverage because it was deemed a deferred maintenance issue rather as a result of a pipe burst. The residence was sold at market value in “as is” and “where is” condition.

DoVico said he asked Harter to communicate with family members because of several incidents that occurred for which DoVico blamed Sletten. DoVico alleged that in September 2007 Sletten arrived at SFI’s office unannounced and was belligerent, aggressive, and verbally abusive to SFI staff so he was asked to leave. A second incident occurred around September 2010 when Sletten visited his mother in the hospital and was verbally abusive to his sister. DoVico said because of “being harassed, accused of wrong doing and threats of litigation” Harter was utilized to communicate with Sletten.

DoVico said the Internal Revenue Service (“IRS”) charged the estate \$3,463.13 regarding the 2007 tax return but SFI “incorrectly classified the entry as penalties and interest paid to the IRS” on the annual accounting. The IRS amended the amount of taxes owed from 2007 resulting in additional interest charges. DoVico noted the tax return was completed by Mrs. Sletten’s accountant.

DoVico disputed any notion that Time Matters is a “type of nefarious billing machine” capable of generating and duplicating bills instead describing it as an electronic filing system adding that SFI has used it for at least 13 years.

6. On May 30, 2013, the Division received written correspondence from Phil. He denied being the recipient of a \$100,000.00 loan or that any money was ever deposited into any of his own accounts. Phil acknowledged signing the *Promissory Note* as “maker” for the Sletten Trust. He verified the loan was included in the annual accounting and provided supporting documentation.
7. On September 8, 2013, Division Investigator Pasquale Fontana (“Investigator Fontana”) conducted a telephonic interview with Gary. He is married to Mrs. Sletten’s daughter, Cynthia. Gary acknowledged receiving 15 quarterly reports but said he did not receive 14 quarterly reports. He notified SFI when reports were not received. Gary maintained a log of which quarterly reports they got from SFI and said he would make his records available to the Division.

Gary said SFI sent him a letter, dated March 8, 2006, offering options to address estate cash flow issues including obtaining a line of credit on a commercial property. SFI contacted two major banks and was confident a loan could be secured at 7.75% interest but indicated Court approval was required because the property was restricted. The letter advised family members willing to enter into a similar agreement to contact Phil but Gary said no family member was able to

make the loan. Other options included a reverse mortgage but it was unclear whether this was for the commercial or residential property.

Gary denied that SFI discussed the \$100,000.00 loan with family prior to the loan being made. He acknowledged a family meeting was held at SFI's office on June 22, 2007, and while money issues were raised the loan was not. Gary was unaware of who provided the loan and later learned it was "DoVico's friends" or someone with whom DoVico had relations. Gary said he obtained a personal loan on his own residence in 2006 or 2007 for 4.75% or 5.0% interest and said, "If somebody was going to offer me an 18 or 15 % opportunity for a loan, I probably would have jumped at it."

8. On September 13, 2013, Investigator Fontana conducted a telephonic interview with Terry. He said he attended a family meeting held at SFI's office and recalled discussion about a "cash issue" and the estate needing money "from time to time." SFI asked whether anyone was able to help out financially and said interest bearing notes would be available but there was no mention of how much money was required and the \$100,000.00 loan was not discussed. After Terry heard the loan was made at 18% interest he called and spoke with Harter and Theut via telephone conference. Harter verified it was a short term loan at 13% interest and explained that it was a "hard money loan" because banks would not "touch the estate." Terry told Harter despite initially declining an opportunity to provide a loan to the estate he would have done so had he known it paid 13% interest. Terry said he recalled receiving correspondence from Harter regarding a loan but said it was sent out "well after" the loan was taken. Terry said he did not know who was providing the loan and later discovered it was DoVico or his family adding, "I would have questioned that significantly" had he been previously informed. Terry noted shortly after the loan SFI sold his mother's residence for 1.2 million dollars and said, "To my way of thinking, you got a property that's free and clear that ultimately sold for a million two, somebody had to be able to loan money from that."

Terry said SFI may have sent quarterly reports in the first year but then "it just stopped." SFI promised monthly reports but did not deliver then assured quarterly reports would be mailed out but that did not happen. Terry received "inch thick" packages of detailed financial documents and said going through them was difficult and tedious and even more so for someone without an accounting background. He noted accounting entries showed staff charging 10 minutes for a task at \$15.00 per hour then another for eight minutes at \$40.00 per hour and said "it just drove us crazy looking at this stuff."

9. On September 20, 2013, Investigator Fontana conducted a telephonic interview with Theut. He could not recall whether the residence was a Trust asset prior to SFI's involvement but said it was a restricted asset requiring judicial approval to sell the property. Theut could not remember any discussion about removing the restricted status prior to securing the line of credit saying "we give fiduciaries a

wide berth.” Theut said the estate needed money due to the property’s poor condition and “a hard money loan” was sought. Theut opined family members had financial resources but no one came forward to assist. He stated he did not have any concerns for DoVico’s family making the loan to the estate adding DoVico loaned the estate money “out of the goodness of his heart but he didn’t have to.” Theut said he would not have agreed to DoVico using hard money lenders charging 30% or 36 % interest.

10. On September 26, 2013, Investigator Fontana conducted a telephonic interview with Harter. He was uncertain if the residential property was a Trust asset prior to SFI’s involvement opining that Mrs. Sletten’s former attorney failed to complete a transfer of assets into the Trust. Harter stated the residence could not be sold without prior Court approval but referenced a statutory provision permitting SFI to borrow money and encumber the property and said a “bridge” loan was necessary. Regarding judicial approval prior to converting restricted assets to cash Harter said it is his practice to seek Court permission if SFI wanted to convert restricted assets into cash and doing so would require an increase in the bond. Harter said the Sletten family was aware of the need for the \$100,000.00 loan and he sent letters to family members informing them of the proposed terms of the loan. Each was asked to fund all of part of the loan but no one was willing.
11. On October 16, 2013, Investigator Fontana conducted a telephonic interview with DoVico. He confirmed the estate received \$100,000.00 from his wife’s Petric Trust. He said he did not think he was in any conflict of interest in making the loan because Mrs. Sletten needed money for her care, funds from the reverse mortgage were used, and bills were mounting. DoVico tried securing money from banks but was refused unless he personally guaranteed the loan against his own credit and net worth opining that doing so would have placed him in a conflict of interest. He said “hard money lenders” charged exorbitant interest rates and Harter and Theut approached him inquiring about potential alternative funding sources so DoVico offered his wife’s Trust as an option. In order to avoid a conflict of interest DoVico said he wrote to family members spelling out the terms of the loan and gave everyone an opportunity to lend the estate money but no one was willing to do so. DoVico stated he had to choose between hard money lenders or providing a lower interest loan to the estate. He noted a third option was to allow Mrs. Sletten to be evicted then to seek the Court’s direction remarking, “This is why they pay fiduciaries to make those kinds of decisions so we don’t clog up the Court with petitions for instruction because the judge probably would have said go ahead and make the loan.”

DoVico said he considered filing a petition with the Court advising of liquidity problems and that his family was loaning money to the estate but he did not because the attorneys thought it was a transparent transaction, interested parties were notified, it made commercial sense, and the loan could be disclosed to the Court in the subsequent accounting. He restated his authority to borrow and lend money and said filing a petition in Court would add another unaffordable expense



to the estate. He maintained the estate required money for necessary repairs to buildings in disarray particularly the income producing properties in Carefree, Arizona, or the estate risked losing the tenants and cash flow. Money from the loan was used “all to the betterment of the Trust” and said despite SFI and both attorneys having significant Court-approved but unpaid fees because of liquidity issues, SFI paid for Mrs. Sletten’s care and kept the properties maintained. He said SFI took money “when there was liquidity” and paid some of its fees out of the proceeds from the sale of the residence but “not nearly what was owed us.”

Regarding taxation, DoVico said the IRS notified SFI in 2010 about problems with Mrs. Sletten’s 2007 taxes. Her accountant filed the taxes on time but may not have had all the information required at the time of filing. The IRS adjusted the taxes owing and also charged interest over several years.

With respect to Harter performing fiduciary tasks, DoVico said he asked Harter to become more involved because in September 2007 Sletten came to SFI’s office intoxicated, yelling obscenities, and was verbally abusive to staff. Sletten was asked to leave and not return unless he behaved himself. DoVico said Harter was utilized because, as an attorney, he was a more “authoritarian” figure, would “calm things down,” and could explain legal matters and “ramifications.” DoVico stated he did not have concerns for the costs Harter charged for sending emails to the family and said those costs were approved by the Court. DoVico did not believe costs to be excessive commenting it was cheaper than calling police, obtaining a restraining order, and reporting to the Court.

DoVico said SFI sent quarterly reports to the interested parties but he was uncertain if it was done “religiously” stating he would have heard from family members if reports were not received but he was unaware of anyone other than Sletten complaining.

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## **ANALYSIS OF ALLEGATIONS:**

***Allegation 1: Sletten alleges SFI billed the estate for quarterly reports but did not provide those reports.***

*ACJA § 7-201(F)(1) and ACJA § 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).*

*§ 7-202(J)(1)(a) states:*

*Code of Conduct. This code of conduct is adopted by the supreme court to apply to all licensed fiduciaries, pursuant to A.R.S. § 14-5651(A)(1) in the state of Arizona. The purpose of this section is to establish minimum standards of performance for licensed fiduciaries.*

*1. Duty to the Court.*

*a. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law, federal law, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration.*

*Administrative Orders 2006-71 and 2009-34, ACJA § 7-202(J)(7); and 2009-105, ACJA § 7-202(J)(8), in effect during the period of the alleged misconduct, read:*

*7. Compliance. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section adopted by the supreme court governing the certification of fiduciaries.*

*8. Compliance. The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section adopted by the supreme court governing the licensure of fiduciaries.*

*ACJA §7-201(H)(6)(k)(5)states:*

*A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:*

*k. Engaged in unprofessional conduct, including:*

*(5) Failed to retain client or customer records for a period of three years unless law or rule allows for a different retention period;*

The Honorable Dean M. Fink's ("Judge Fink") Order, dated January 12, 2006, ordered SFI to "provide quarterly reports to all interested parties." SFI was not obligated to file the quarterly reports with the Court.

A review of correspondence from SFI and Harter to family members, dated February 17, 2006; March 7, 2006; and September 11, 2007; acknowledged SFI would provide interested parties with quarterly statements generated every three months and sent approximately 10 business days after the calendar quarter. In written response to the Division, DoVico said reports were sent quarterly via U.S. mail, without receipt, therefore SFI had no record of sending them adding, "It seems fairly straightforward that SFI would only send reports to Craig [Sletten] and his brother and not send reports to the other family members." In his interview, Dovico said SFI sent quarterly reports but he was uncertain if it was done consistently, that he would have heard from the family if reports were not received, and was unaware of anyone other than Sletten complaining.

Documents were provided to the Division demonstrating that the family did complain of failure to receive statement. Correspondence from Cynthia to SFI, dated September 7, 2006, noted she and her brothers received only one report in March 2006 and reminded SFI reports were not just a request from family but required by the Court. A letter from Gary to SFI, dated May 23, 2007, advised he received three quarterly reports since January 2006. More recent emails provided by family members described their memory of the facts. Sletten received an email from his brother, Phillip, dated April 8, 2013, stating he had not received monthly, quarterly, or annual updates and despite address changes other mail reached them. An unsigned typed letter from Gary and Cynthia, dated March 22, 2013, informed Sletten they reviewed records and found no financial reports from SFI except annual reports and most recently for April 29, 2011, and April 30, 2012. Additionally, in their respective interviews with the Division, Gary said he received 15 quarterly reports but was missing 14 quarterly reports and Terry stated SFI may have sent quarterly reports in the first year but then stopped.

At the Division's request, on November 8, 2013, SFI provided copies of quarterly reports produced. Peggy, on behalf of SFI, acknowledged quarters were missing but said it did not necessarily mean that reports were not produced and forwarded to family members and said the person who completed the report did not properly save it in SFI's system or files. Records reviewed included various cover letters addressed to interested parties and quarterly income and expense reports. Each income and expense report had a production date consistent with the respective quarter. Four of the cover letters stated reports were enclosed but SFI did not provide the Division with a record of the corresponding quarterly reports. SFI did not produce a copy of the following income and expense reports:

- Second and third quarters 2006
- First and third quarters 2007
- All quarters 2008
- Third and fourth quarters 2009
- First quarter 2010
- First, second and fourth quarters 2011
- All quarters 2012
- First quarter 2013

On November 22, 2013, Peggy submitted an additional 14 income and expense reports to the Division. These reports were inconsistent with the format of those SFI previously submitted. There were no cover letters to interested parties and every income and expense report showed a production date of November 22, 2013 rather than a date correlating to the respective quarter. When asked about these differences Peggy stated the reports with the November dates were the ones missing from the correspondence file, said she "ran" them because of the Division's request, and maintained it did not mean reports were not forwarded to parties but staff completing the reports failed to put them in the correspondence file.

Gary sent the Division his documentation identifying report dates, postmark dates, and quarters covered. His records showed he received 17 quarterly reports but did not receive 14 quarterly reports. He documented that he did not receive the fourth quarter 2007 and fourth quarter 2010 although SFI's submitted records to the Division reproducing cover letters and corresponding income and expense reports for those periods. Gary also noted he received the second and third quarter reports for 2006. Those reports appeared on SFI's documents reflecting the November 22, 2013 production dates. However, Gary's records also revealed that 12 of the quarters he claimed he did not receive corresponded to the 12 reports presented by SFI with the November 22, 2013 production dates.

A review of SFI's accountings showed there were charges for various tasks related to quarterly reports including staffing, preparing documents, preparing envelopes, correspondence to family members, and copying correspondence.

Despite being judicially mandated to provide all interested parties with quarterly reports DoVico acknowledged he did not have proof of mailing the reports. There is evidence that different family members complained timely of failure to receive the reports; that the records provided Gary as to which reports were received is substantially similar to the reports, with cover letters, provided to the Division on November 8, 2013; and Gary's description of the reports they did not receive is substantially similar to the reports provided to the Division on November 22, 2013, that were not accompanied by cover letters and were in a different format. Therefore, Allegation 1 is substantiated.

***Allegation 2: Sletten alleges SFI uses software programs, Time Matters and Time Keepers, which add unfair and unnecessary billing costs to the estate.***

Sletten questioned SFI's billing because of software programs used and cited an example in the accounting where on February 8, 2011, SFI billed for 11 hours for various financial and bank related transactions.

DoVico refuted Sletten's assertions saying Time Matters is not a "type of nefarious billing machine" capable of generating and duplicating bills, that is it an electronic filing system, not a billing system, and SFI has used this for the past 13 years.

There are no provisions in the ACJA regulating software programs fiduciaries may utilize in the course of business. The fiduciary is required to ensure fees and expenses for the estate are reasonable in amount and necessarily incurred. A review of SFI's annual accountings showed SFI's billing appeared to be consistent over years regarding tasks to reconcile the estate's bank accounts. Therefore, Allegation 2 is not substantiated.

***Allegation 3: Sletten alleges SFI expended in excess of \$2,350,000.00 and there has been continual depletion of the estate's assets since 2006.***

DoVico acknowledged spending considerable estate money through the administration of numerous rental properties and said expenses were related to 24-hour personal care and care providers, medical expenses, repairs to property due to sub-standard construction

quality, and discovery of various building code violations. DoVico denied there was any depletion of estate assets with the exception of the sale of the primary residence and an income equity fund. He said property valuations were lowered to reflect recession values.

A review of SFI's accountings from October 20, 2005 through January 31, 2013 documented that the overall value of Mrs. Sletten's estate diminished from approximately \$3.4 million dollars to an ending balance of approximately \$732,147.70. Records identified recurrent and numerous expenditures over those years including extensive caregiver fees, property maintenance costs and repairs, property management fees, taxes, fiduciary and legal fees, and various associated expenses on behalf of the estate.

From October 20, 2005 through January 31, 2013, SFI accountings showed the estate incurred \$497,444.86 in combined fiduciary and legal fees. SFI billed for \$339,591.27; Harter charged \$97,455.88; Theut for \$44,058.20; and previous attorneys David Curtis, and Schmidt & Schnek combined for \$16,339.51, for services rendered. The Division noted that SFI utilized Harter extensively over the course of numerous years for a wide variety of tasks. Some of those tasks appeared to functions that the fiduciary should have performed (see Allegation 8). Much of the estate was restricted and the primary residence and other restricted assets were sold with judicial approval. The income producing properties remain in the Trust although the overall value of the estate diminished over years. Therefore, Allegation 3 is not substantiated.

***Allegation 4: Sletten alleges SFI conveyed property, a restricted asset, to the ward, and took a \$412,000.00 loan on the property.***

The facts related to this allegation are not contested. On January 12, 2006, the Court ordered that, "*All real property shall be restricted and shall only be sold upon prior approval of this Court.*"

DoVico acknowledged he did not seek judicial approval prior to obtaining the \$412,000.00 line of credit secured by the property. DoVico's position was that Arizona statutes grant fiduciaries the authority to borrow money and, in that situation, the Court restricted only the sale of the property and not encumbrance. Harter, on behalf of SFI, said converting restricted assets to cash would require judicial permission and entail an adjustment in the bond amount but maintained SFI had authority to obtain a reverse mortgage on the property and use the property as collateral because the Order of Appointment was silent on the point and SFI was permitted to borrow money under A.R.S 14-5424(C)(18)

At the time of the investigation, DoVico's position appeared to be inconsistent with a position he took in a letter, dated March 7, 2006, he sent to the family members, identifying, in part, the option of addressing estate cash flow issues by obtaining a line of credit on certain commercial properties but said securing the loan would require Court approval to "un-restrict the asset." The letter referenced commercial properties but the \$412,000.00 line of credit was on the residential property. The Court imposed restriction did not differentiate between commercial and residential property. The line of

credit/reverse mortgage was ultimately obtained on the residential property on or about April 10, 2006.

The Court Accountant's *Report and Recommendation Initial Review* of the Trust accounting, dated September 25, 2007, highlighted, in pertinent part, the restriction of assets and noted a line of credit on the residence was established by SFI on April 10, 2006, thereby converting \$399,749.48 of restricted assets to cash without seeking Court approval for the conversion and sought the fiduciary's explanation. Although Dovico responded to certain issues in the Accountant's Report, DoVico did not appear to address this issue. The Court eventually approved the accounting.

While the Division believes the most appropriate reading of the Court's January 12, 2006, order prohibits encumbering the property without Court approval, because that order expressly prohibited the sale but not encumbrance of the property the Division believes there is ambiguity. Therefore, Allegation 4 is not substantiated.

***Allegation 5: Sletten alleges SFI failed to properly insure the ward's residence, the home was damaged by water, resulting in devaluation of the estate.***

In August 2006, black mold was discovered in the residence. Both Sletten and DoVico verified the residence was insured but that the policy excluded the mold discovered in the home. The Division reviewed this matter and whether failure to provide insurance regarding mold arises to a failure of care or not, the Division does not believe the fiduciary violated the professional duties imposed by the ACJA. Therefore, Allegation 5 is not substantiated.

***Allegation 6: Sletten alleges DoVico, as trustee of the Petric Family Trust, made a loan to SFI estate manager, Phillip DoVico, for \$100,000.00 using the ward's house as security and charged 18% interest.***

On August 27, 2007, SFI estate manager, Phil, executed a *Deed of Trust, Promissory Note*, on the residence securing a \$100,000.00 loan from the Petric Trust. In addition to Phil's signature as Trustor, the *Deed of Trust* was also executed by DoVico, on behalf of the Petric Trust. A review of Mrs. Sletten's August 2007 bank statement for account ending \*\*\*6363 (M&I Bank) showed the funds were deposited into her account and used to pay, among other things, legal and fiduciary fees (see Allegation 10). The Division found no evidence that funds were paid directly to Phil. Therefore, Allegation 6 is not substantiated.

***Allegation 7: Sletten alleges SFI did not list the \$100,000.00 loan on the annual accounting for that year.***

On March 28, 2008, SFI submitted a petition for approval of the annual accounting for the period covering February 1, 2007 through January 31, 2008. The Division noted the *Promissory Note* for the amount of \$100,000.00, executed on August 27, 2007, was

recorded on the accounting's Schedule 5/Disbursements. The loan was repaid on November 15, 2007. Therefore, Allegation 7 is not substantiated.

***Allegation 8: Sletten alleges SFI had its attorney perform tasks that should have been done by the fiduciary creating unnecessary financial expenses for the ward.***

*ACJA § 7-201(F)(1) and ACJA § 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).*

*Administrative Order 2009-105, in effect at the time of the alleged misconduct, ACJA §7-202(J)(2) reads:*

*Ethics. The fiduciary shall exhibit the highest degree of trust, loyalty and fidelity in relation to the ward, protected person, or estate.*

*a. The fiduciary shall manage and protect the personal and monetary interests of the ward or protected person and foster growth, independence and self reliance to the maximum degree.*

*ACJA §7-202(J)(4) and (4)(i) state:*

*4. The fiduciary acting as conservator for the estate shall provide competent management of the property and income of the estate. The fiduciary shall exercise intelligence, prudence and diligence in the discharge of all duties. A fiduciary shall avoid any self-interest in the discharge of this duty.*

*i) The fiduciary shall ensure all fees and expenses incurred for the protected person by the fiduciary, including compensation for the services of the fiduciary are reasonable in amount and necessarily incurred for the welfare of the protected person.*

*A.R.S. §14-1104(1) sets out:*

*1. The fiduciary must prudently manage costs, preserve the assets of the ward or protected person for the benefit of the ward or protected person and protect against incurring any costs that exceed probable benefits to the ward, protected person, decedent's estate or trust, except as otherwise directed by a governing instrument or court order.*

Sletten submitted four emails Harter sent family members, dated September 26, 2011, informing and updating the family on his mother's hospitalization and health over the course of that day.

In his written response to the Division, DoVico said he asked Harter to communicate with Sletten based on "being harassed, accused of wrongdoing and threats of litigation." DoVico identified several incidents involving Sletten alleged to have occurred in

September 2007 and September 2011. In his interview DoVico maintained he utilized Harter in communications in order to better explain legal matters and “ramifications” and because Harter’s professional status as an attorney would present him as an “authoritarian” figure and prove beneficial in helping to “calm things down.” DoVico stated he was not concerned about costs incurred by Harter sending emails to the family and did not believe costs were excessive because he said it was cheaper than calling police, obtaining a restraining order, and reporting to the Court.

A review of several of Harter’s filed *Rule 5.7 Statements* reflected billing for a broad range of tasks over numerous years indicative of active engagement with the fiduciary on behalf of estate matters. Specific to this allegation, Harter’s invoice to SFI for professional services rendered, dated September 30, 2011 showed on September 26, 2011, he billed SFI for 2.5 hours, charging the estate \$812.50, for 10 emails to “*update all regarding Myra [sic] [Mrs. Sletten] health, hospitalization, surgical plans, etc.*” Three days later, Harter billed for 0.3 hours, at a cost of \$97.50, for work regarding following up on discharge planning. Calculations reflect Harter charged \$325.00 per hour for his services.

A review of SFI’s 2011 and 2012 accounting showed DoVico’s rates for services rendered at \$120.00 per hour, Phil at \$95.00 per hour, and the social services coordinator at \$65.00. Had the family been updated and sent 10 emails at DoVico’s rate of compensation the estate would have incurred \$300.00 in costs; at Phil’s rate, \$237.50; and at staff’s rate, \$162.50. If Sletten conducted himself in any inappropriate, disruptive, aggressive, or threatening manner on those occasions as alleged by DoVico then email correspondence may have been a suitable alternative means of communicating for some transactions. However, emails sent to update family members on Mrs. Sletten’s health, hospitalization, and surgical matters could have been sent by SFI’s staff at a considerably lower cost to the estate and with a copy to Harter, if necessary. A review of accountings showed that SFI staff sent various emails to family members including Sletten to update on Mrs. Sletten’s health related matters, travel and other issues.

DoVico is compelled to exercise intelligence, prudence, and diligence when considering the reasonableness of fees for which Mrs. Sletten was required to compensate and he is obligated to determine whether costs incurred exceed the benefits to her or to the estate. Allowing Harter to send the above-reference emails, on SFI’s behalf, informing the family on health and medical matters calls into question whether Harter’s legal expertise and services were actually necessary and invites inquiry as to how Mrs. Sletten or the estate benefitted from or was better served from this transaction. Therefore, Allegation 8 is substantiated.

***Allegation 9: Sletten alleges SFI failed to pay the ward’s taxes on time resulting in interest and penalty charges.***

DoVico verified the IRS charged the estate \$295.91 in interest regarding the 2007/1040 return because of adjustments made to taxes owed by the estate. The mistake in the 2007 tax return was caused by Mrs. Sletten’s accountant not having all of the information required at the time of filing but timely filed her taxes. The Division notes in some



circumstances a fiduciary may have a responsibility to seek reimbursement from the individual causing the harm. In this situation, taking into account the amount of interest charged, the Division does not believe it was a violation of the ACJA to do so. Therefore, Allegation 9 is not substantiated.

***Allegation 10: SFI did not avoid self-dealing or the appearance of a conflict of interest in violation of ACJA § 7-201 (F)(1), ACJA § 7-202(F)(1) , § 7-202 (J)(1), § 7-202(J)(7), § 7-202 (J)(2)(b,) and § 7-202 (J)(4)(g).***

*Pursuant to Administrative Orders 2006-70 and 2006-71, ACJA § 7-201 (F)(1) and ACJA § 7-202 (F)(1) respectively, in effect at the time of the alleged misconduct, require that all certified holders comply with the Code of Conduct in § 7-202(J).*

*ACJA § 7-202(J)(2)(b) states:*

*2. The fiduciary shall exhibit the highest degree of trust, loyalty and fidelity in relation to the ward, protected person, or estate.*

*b. The fiduciary shall avoid self-dealing or the appearance of a conflict of interest. Self dealing or a conflict of interest arises where the fiduciary has some personal or agency interest other individuals may perceive as self-serving or adverse to the position or best interest of the ward, protected person, or decedent. In situations where no other services are available, the fiduciary shall disclose the potential conflict in a petition to the superior court, seeking approval prior to the provision of services.*

*ACJA § 7-202(J)(4)(g) states:*

*4. The fiduciary acting as conservator for the estate shall provide competent management of the property and income of the estate. The fiduciary shall exercise intelligence, prudence and diligence in the discharge of all duties. A fiduciary shall avoid any self-interest in the discharge of this duty.*

*g. The fiduciary shall have no self-interest in the management of the estate and shall exercise caution to avoid even the appearance of self-interest.*

The Order to Guardian and Conservator sent to SFI by the Superior Court and filed on October 28, 2005, Conservator subsection 10 reads:

*10. **NEVER** use any of the protected person's money or property for any reason other than the protected person's direct benefit. You may not profit in any way from access to the protected person's assets. You have a legal duty of undivided loyalty to the protected person. Neither you, your friends, nor other family members may profit by dealing in the assets of the Conservator's Estate. You must be cautious and prudent in investing the protected person's assets.*

On August 27, 2007, the Trust received a \$100,000.00 loan from the Petric Trust. The loan is evidenced by a *Deed of Trust* signed by Phil, as estate manager for SFI, the Trustor of the *Deed of Trust*. DoVico also signed the *Deed of Trust* as Trustee of the Petric Trust, beneficiary of the *Deed of Trust*. DoVico's wife, Peggy, is a named beneficiary of the Petric Trust and it is her family's trust. It does not appear Phil or DoVico are named beneficiaries but have evident familial ties to the Petric Trust.

The Division reviewed a letter from Harter to all interested parties and Theut, dated August 29, 2007, two days after loan was made, stating, in part, that SFI arranged to borrow \$100,000.00; said the lender was a family trust and identified the Trustors of which were DoVico's in-laws; noted the 13% interest rate; and informed that SFI had previously utilized this borrowing approach. The letter informed family members wishing to step in as lenders to contact SFI and the fiduciary would execute the appropriate documents. The letter advised family members to call Harter should there be any questions about the interest rate because he assembled a substantial volume of information to support the interest rate charged.

In his interview, DoVico said the estate needed the money to make necessary repairs to buildings, particularly to the Carefree rental properties, or the estate risked losing tenants and cash flow. He said the loan was used "all to the betterment of the Trust" and despite SFI and the attorneys having significant Court-approved but unpaid fees SFI elected to pay for Mrs. Sletten's care and keep the properties maintained. SFI occasionally took money when there was liquidity, paying some of its fees from the proceeds from the sale of the residence.

The Division reviewed the accounting records for February 2007 through January 2010 to ascertain how much money was spent on repairs to rental property. Those documents listed the following notable repair expenses:

- February 1, 2007 through January 31, 2008, approximately \$5,000.00 for repairs to a Scottsdale property
- February 1, 2008 through January 31, 2009, approximately \$7,200.00 in various repairs
- January 22, 2010, approximately \$25,938.55 in repairs to the Carefree property.

The accounting's Schedule 5/Disbursements demonstrated that on August 28, 2007, the day after the loan to the estate, SFI received \$41, 038.16, evidenced by check number 7376, from the Conservatorship, and \$5,929.58, check number 7377, from the Trust. Checks cleared on August 31, 2007. Total fiduciary payments on August 28, 2007 amounted to \$46,987.00.

The accounting also showed that on August 28, 2007, Harter received \$11,044.54, check number 7378; and Theut received \$2,631.15, check number 7379. The two checks cleared on August 30 and 31, 2007, respectively. Of the \$100,000.00 loan to the estate SFI, Harter, and Theut seemed to have received \$60, 653.69 in combined payments.

Regarding the \$100,000.00 loan the estate received from the Petric Trust, in his interview, DoVico stated he did not believe he was in a conflict of interest because the estate needed money, he was unable to secure a traditional loan, and he confronted high interest rates from hard money lenders. He considered the financial transaction transparent because family members were notified of the loan and the loan would be disclosed to the Court in the subsequent accounting period. DoVico considered filing a petition with the Court advising the Court of the liquidity problems and that the Petric Trust was making the loan but said he determined doing so would have added an “unaffordable expense” to the estate and claimed fiduciaries are paid to make those decisions in order not to “clog up” the Court with petitions he believed the Court would approve anyway.

ACJA § 7-202(J)(2)(b) compels the fiduciary to “avoid self-dealing or the appearance of a conflict of interest” and describes self-dealing or a conflict of interest as situations where the “fiduciary has some personal or agency interest other individuals may perceive as self-serving or adverse to the position or best interest of the ward, protected person, or decedent.” The section further states, “In situations where no other services are available, the fiduciary shall disclose the potential conflict in a petition to the superior court, seeking approval prior to the provision of services. DoVico was duty-bound to disclose any potential conflict to the Court and seek judicial approval and direction prior to proceeding but did not.

ACJA § 7-202(J)(4)(g) requires the fiduciary to avoid any self-interest and to “exercise caution to avoid even the appearance of self-interest” in the discharge of its duties as conservator. The *Order to Guardian and Conservator* filed on October 28, 2005, advised, in part, that the fiduciary, friends, or family members may not profit by dealing in the assets of the protected person. In this transaction, the Petric Trust received \$2,884.93 in interest from the estate for the loan. Therefore, Allegation 10 is substantiated.

***Allegation 11: DoVico delegated fiduciary responsibilities to an unlicensed employee, in violation of ACJA § 7-202(F)(5)(a) and § 7-202(F)(5)(c).***

*ACJA § 7-201(F)(1) and ACJA § 7-202(F)(1) require all fiduciaries to comply with the Code of Conduct contained in § 7-202(J).*

*Pursuant to Administrative Order 2006-71, in effect at the time of the alleged misconduct, the ACJA §7-202 (A) Definitions states:*

*“Trainee” means a person who would qualify for certification as a fiduciary but for the lack of required experience and who is seeking to gain the required experience to qualify as a certified fiduciary by working under the supervision of a certified fiduciary to perform authorized services, as set forth in pursuant to this section.*

*ACJA § 7-202 (F)(5)(a) and § 7-202 (F)(5)(c) read:*

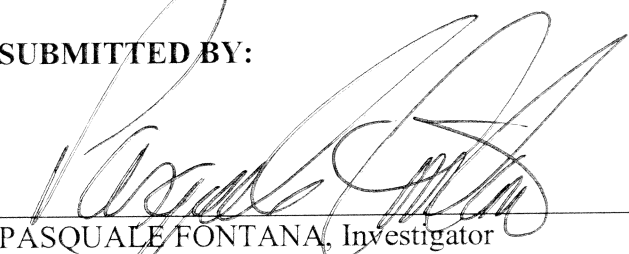
a. The supervising fiduciary shall maintain the primary responsibility for the client or estate and shall not delegate this duty to any trainee.

c. The trainee may perform authorized services, as set forth in statute, court orders, this section and ACJA § 7-201, only under the supervision of the certified fiduciary. Neither the trainee nor the supervising fiduciary may represent the trainee is a certified fiduciary.

On August 27, 2007, Phil executed a *Deed of Trust* and *Promissory Note* on behalf of the Trust, as borrower, for the amount of \$100,000.00 and signed the *Deed of Trust* under the "Signatures of Trustor(s)," as Estate Manager, on behalf of SFI, Trustee; and signed as same as "Maker" on the *Promissory Note*. DoVico signed the same two documents as Trustee of the Petric Trust, the lender. DoVico maintained Phil executed the documents, "as an officer of SFI and estate manager, reporting and overseen by the principal fiduciary of the company."

In executing the *Deed of Trust* and signing as Trustor for the Trust, as well as signing the *Promissory Note*, Phil appeared to be acting in a fiduciary capacity by approving the transaction, entering into contract, and assuming responsibility for the terms and conditions contained therein. Therefore, Allegation 11 is substantiated.

**SUBMITTED BY:**

  
PASQUALE FONTANA, Investigator  
Certification and Licensing Division

3/7/14  
Date

**REVIEWED BY:**

  
Certification and Licensing Division

3/24/14  
Date

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**DECISION OF THE PROBABLE CAUSE EVALUATOR:**

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number **13-0004**, the Probable Cause Evaluator:

☐ requests division staff to investigate further.

☒ determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

#2, 3, 4, 5, 6, 7, 9.

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☒ determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):

#1, 8, 10, 11.

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*Mike Baumstark* 4/8/14

Mike Baumstark

Date

Probable Cause Evaluator

**ARIZONA SUPREME COURT  
ADMINISTRATIVE OFFICE OF THE COURTS  
ORDER OF THE BOARD**

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<b><i>CERTIFICATE HOLDER/LICENSEE INFORMATION</i></b>	<b>Certificate Holder:</b>	Gregory DoVico
	<b>Certification Number:</b>	20067
	<b>Business Name:</b>	Southwest Fiduciary, Inc.
	<b>Certificate Number:</b>	20069

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It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Gregory DoVico and SFI have not committed the alleged acts of misconduct as detailed in Allegations 2, 3, 4, 5, 6, 7 and 9 of the Investigation Summary and Allegation Analysis Report in complaint number 13-0004. It is further recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Gregory DoVico and SFI have committed the alleged acts of misconduct as detailed in Allegations 1, 8, 10 and 11 of the Investigative Summary and Allegation Analysis Report in complaint number 13-0004.

It is recommended that the Board enter a finding dismissing Allegations 2, 3, 4, 5, 6, 7, and 9 pursuant to ACJA § 7-201(H)(5)(c)(1).

It is recommended the Board enter a finding grounds for informal disciplinary action exists for acts of misconduct involving Allegations 1 and 8 for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-202(J), 7-206(H)(6)(k) and A.R.S. § 14-1104(l) and issue a Letter of Concern.

It is recommended the Board enter a finding grounds for formal disciplinary action exists for acts of misconduct involving Allegations 10 and 11 for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-202(F)(5)(a) and (c) and 7-202(J) and issue a Censure.

**Aggravating Factors:**

1. Prior record of discipline. [ACJA § 7-201(H)(22)(b)(2)(a)] Division records reflect Letters of Concern have previously been issued to Mr. DoVico and SFI in the following complaint matters:

02-0010:	Letter of Concern issued May 20, 2005
02-0016:	Letter of Concern issued May 20, 2005
03-0005:	Letter of Concern issued February 7, 2005
06-0001:	Letter of Concern issued November 3, 2006
08-0008:	Letter of Concern issued September 9, 2010

2. Substantial experience in the profession. Mr. DoVico and SFI have been certified/licensed since the inception of the program. [ACJA § 7-201(H)(22)(b)(2)(i)]

The stated purpose of the Fiduciary Program includes protecting the public through professional and competent performance in accordance with all applicable statutes and court rules.

In Allegation 1, Mr. DoVico and SFI were found to have failed to provide court ordered financial records to interested parties. In Allegation 8, Mr. DoVico and SFI were found to delegate to the attorney the responsibility for notifying interested parties information concerning the health issues of their ward. To date, the typical sanction for failure to provide accounting records/reports has been the issuance of a Letter of Concern.

In Allegation 10, Mr. DoVico and SFI were found to have been involved in self dealing or creating the appearance of a conflict of interest by causing the Petric Trust to lend \$100,000 to the estate. A significant portion of the loan proceeds were subsequently used to pay SFI or attorneys their fees. There is evidence that SFI may have made representations that the loan was necessary to maintain and protect real property of the estate. Mr. DoVico and SFI did not receive prior court approval of this transaction. In Allegation 11, Mr. DoVico and SFI allowed a non license employee of SFI to execute the loan documents for the \$100,000 loan described in Allegation 10.

**SUBMITTED BY:**

 4/30/14

Mark D. Wilson

Date

Director

Certification and Licensing Division

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**FINAL DECISION AND ORDER:**

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 13-0004 and Gregory DoVico, certificate number 20067 and Southwest Fiduciary, Inc. certification number 20069, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

- ☐ requests division staff to investigate further.
- ☐ refers the complaint to another entity with jurisdiction.

Referral to: \_\_\_\_\_

- ☐ dismisses the complaint, and:

- Date, Time, and Location: \_\_\_\_\_

- THE CONSENT AGREEMENT ATTACHED HEREIN - YAL

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IN THE MATTER OF LICENCED  
FIDUCIARY:

## CONSENT AGREEMENT

Southwest Fiduciary, Inc.  
License Number 20069

The Fiduciary Board is empowered pursuant to A.R.S. § 14-5651 *et. seq.* to regulate the license and practice of private fiduciaries in the State of Arizona.

Southwest Fiduciary, Inc. has been issued license number 20069.

Gregory P. DoVico has been issued license number 20067.

On April 22, 2013 the Certification and Licensing Division (the "Division") received a complaint ("Complaint 13-0004") filed by Craig Sletten against Gregory P. DeVico and Southwest Fiduciary, Inc. Complaint 13-0004 contained nine Allegations of misconduct. These Allegations include:

1. Gregory P. DeVico and Southwest Fiduciary, Inc. billed the estate for quarterly reports but did not provide the reports.

2. Gregory P. DeVico and Southwest Fiduciary, Inc. uses software programs, Time Matters and Time Keepers, which add unfair and unnecessary billing costs to the estate.
3. Gregory P. DeVico and Southwest Fiduciary, Inc. expended in excess of \$2,350,000.00 and there has been continual depletion of the estate's assets since 2006.
4. Gregory P. DeVico and Southwest Fiduciary, Inc. conveyed property, a restricted asset, to the ward and took a \$412,000.00 loan on the property.
5. Gregory P. DeVico and Southwest Fiduciary, Inc. failed to properly insure the ward's residence and the home was damaged by water resulting in devaluation of the estate.
6. Gregory P. DeVico and Southwest Fiduciary, Inc. as trustee of the Petric Family Trust, made a loan to SFI estate manager, Phillip DeVico, for \$100,000.00, using the ward's house as security and charged 18% interest.
7. Gregory P. DeVico and Southwest Fiduciary, Inc. did not list the \$100,000.00 loan on the annual accounting for that year.
8. Gregory P. DeVico and Southwest Fiduciary, Inc. had its attorney perform tasks that should have been done by the fiduciary creating unnecessary financial expenses for the ward.
9. Gregory P. DeVico and Southwest Fiduciary, Inc. failed to pay the ward's taxes on time resulting in interest and penalty charges.

Two additional Allegations were investigated and presented to the Fiduciary Board by the Division:

10. Gregory P. DeVico did not avoid self-dealing or the appearance of a conflict of interest.
11. Gregory P. DeVico delegated fiduciary responsibilities to an unlicensed employee.

1 On March 24, 2014, the Division submitted its investigative report to the Probable  
2 Cause Evaluator who determined that probable cause existed for Allegations 1, 8, 10 and 11, and  
3 probable cause did not exist as to Allegations 2, 3, 4, 5, 6, 7, and 9.

4 On May 8, 2014, the Division submitted the investigative report and the Probable Cause  
5 Evaluator's determination and requested the Fiduciary Board dismiss Allegations 2, 3, 4, 5, 6, 7  
6 and 9; issue a Letter of Concern regarding Allegations 1 and 8 and issue a Censure regarding  
7 Allegations 10 and 11. The Fiduciary Board, after deliberation, voted to dismiss Allegations 2,  
8 3, 4, 5, 6, 7, 8, and 9; issued a Letter of Concern as to Allegation 1 and allowed the Division to  
9 further review Allegations 10 and 11.

10 The Division has further reviewed Allegations 10 and 11. In addition, Gregory P.  
11 DoVico, Southwest Fiduciary, Inc. and the Division have participated in numerous discussions  
12 concerning a possible global resolution of all of the Allegations concerning Complaint 13-0004.

13 Subject to an appropriate Fiduciary Board determination, Gregory P. DoVico and  
14 Southwest Fiduciary, Inc. have agreed to the following global resolution of Complaint 13-0004:  
15 the Fiduciary Board issues a Letter of Concern regarding Allegation 1, issues a Censure  
16 regarding Allegations 10 and 11(not to be used as an aggravating factor in future disciplinary  
17 proceedings) and dismisses Allegations 2, 3, 4, 5, 6, 7, 8, and 9.

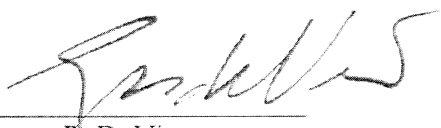
#### 18 **AGREEMENT**

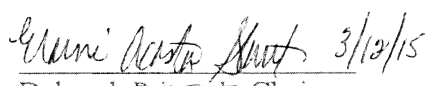
19 By entering into this Consent Agreement, Gregory P. DoVico and Southwest Fiduciary,  
20 Inc. acknowledge that they waive the right to a hearing and agree to the following provisions:

- 21 1. Allegations 2, 3, 4, 5, 6, 7, 8, and 9 are dismissed.
- 22 2. The Fiduciary Board will issue and Gregory P. DoVico and Southwest Fiduciary, Inc.  
23 agree to accept a Letter of Concern regarding Allegation 1 alerting Gregory P. DoVico and  
24 Southwest Fiduciary, Inc. of the need to properly and promptly provide quarterly reports per the  
25 terms and condition of the pertinent Court order.

1 3. The Fiduciary Board will issue and Gregory P. DeVico and Southwest Fiduciary, Inc.  
2 agree to accept a Censure (not to be used as an aggravating factor in subsequent disciplinary  
3 proceedings) as to Allegations 10 and 11 for self-dealing or the appearance of self-dealing and  
4 the delegation of fiduciary responsibilities to an unlicensed employee.

5 Dated this 5 day of MAR, 2015

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9 Gregory P. DeVico

 3/12/15  
Acting Deborah Primock, Chairperson  
Fiduciary Board Elaine Acosta Sweet

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11 Southwest Fiduciary, Inc.

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# Supreme Court

STATE OF ARIZONA  
ADMINISTRATIVE OFFICE OF THE COURTS

March 12, 2015

Scott Bales  
Chief Justice

David K. Byers  
Administrative Director  
of the Courts

Gregory DoVico  
Southwest Fiduciary, Inc.  
7147 North 59<sup>th</sup> Avenue  
Glendale, AZ 85301

**RE: LETTER OF CONCERN - Complaint Number 13-0004**

Dear Mr. DoVico:

On March 12, 2015, the Fiduciary Board ("Board"), pursuant to the Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a), (H)(7), and (H)(24)(a)(6)(a):

1. Reviewed the attached Investigation Summary, Probable Cause Evaluation Report, and Recommendation;
2. Entered a finding grounds for discipline exist in this complaint;
3. Ordered resolution of the complaint through an informal disciplinary sanction; and,
4. Entered the enclosed Order and Consent Agreement to issue this Letter of Concern as to Allegation 1 only.

ACJA § 7-201(H)(24)(b)(2) provides:

*A letter of concern is a written informal discipline sanction and is not appealable. A certificate holder may file a response to the letter of concern no later than fifteen days after the date of the letter of concern. The certificate holder's response is public and division staff shall file the response in the complaint file.*

If you choose to submit a written response, please address it to the Board. Pursuant to ACJA § 7-201(H)(1)(g) and (H)(24)(b)(2), this Letter of Concern and your response are not confidential.

Sincerely,

A handwritten signature in cursive script, reading "Elaine Acosta Sweet".

Elaine Acosta Sweet, Acting Chairperson  
Fiduciary Board  
Enclosures



# Supreme Court

STATE OF ARIZONA  
ADMINISTRATIVE OFFICE OF THE COURTS

Scott Bales  
Chief Justice

David K. Byers  
Administrative Director  
of the Courts

March 12, 2015

Gregory DoVico  
Southwest Fiduciary, Inc.  
7147 North 59<sup>th</sup> Avenue  
Glendale, AZ 85301

**RE: CENSURE - Complaint Number 13-0004**

Dear Mr. DoVico:

On March 12, 2015, the Fiduciary Board ("Board") entered a finding misconduct occurred in the above-referenced complaint number as to Allegations 10 and 11; and pursuant to the Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(24)(a)(6)(b) ordered the issuance of this Censure as stated in the Consent Agreement, a formal written disciplinary sanction. ACJA § 7-201(H)(27) provides:

*Filing of Special Action. Decisions of the Board pursuant to this section and the applicable ACJA sections are final. Parties may seek judicial review through a petition for a special action within 35 days after entry of the Board's final order. The petition for special action shall be pursuant to the Arizona Rules of Procedure for Special Action.*

Pursuant to ACJA § 7-201(H)(1)(g)(2), this Censure is a matter of public record, available for public inspection and is not confidential.

Sincerely,

Elaine Acosta Sweet, Acting Chairperson  
Fiduciary Board